

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE APRIL 10, 2013

SENATE BILL

No. 744

Introduced by Senator Lara

February 22, 2013

An act to amend Sections 1981, 1983, 48660.1, 48662, and 48918 of, to add Sections 1981.5 and 48662.5 to, and to repeal Section 1981.2 of, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 744, as amended, Lara. Pupils: involuntary transfer: county community schools and community day schools.

(1) Existing law authorizes a county board of education to establish and maintain one or more community schools into which the county board of education may enroll specified pupils, including, but not limited to, pupils who are expelled for specified reasons, referred as the result of the recommendation by a school attendance review board, probation referred, or homeless children.

This bill would revise the list of pupils who may be involuntarily enrolled in a county community school to limit the kind of probation referrals and remove homeless children. The bill would require the consent of the pupil's parent or guardian for the enrollment of a pupil who is referred as the result of a recommendation by a school attendance review board. The bill would allow enrollment of certain other pupils in a county community school with the consent of the pupil's parent or guardian. The bill would authorize, with respect to certain probation

referrals to a county community school, ~~a parent, guardian, or responsible adult to request a hearing from the juvenile court~~ *certain persons, including the attorney for a pupil who is under the jurisdiction of a delinquency court, to take specified actions related to the enrollment of a pupil in a county community school.*

(2) Existing law requires a county community school to prescribe an individually planned educational program based on an educational assessment for each pupil. Existing law requires the course of study of a county community school to be adopted by the county board of education to enable each pupil to continue academic work leading to the completion of a regular high school program.

This bill would require an individually planned educational program to include specified services to be provided either at the school or through community organizations.

(3) Existing law authorizes the governing board of a school district to establish one or more community day schools for pupils in any of kindergarten and grades 1 to 12, inclusive. Existing law authorizes the governing board of a school district to assign a pupil to a community day school only if the pupil meets specified conditions, including, but not limited to, being expelled, being referred by a school attendance review board or other district-level referral process, and being probation referred pursuant to specified law.

This bill would revise the list of pupils who may be involuntarily transferred to a community day school to limit the kind of probation referrals. The bill would impose certain conditions on the involuntary transfer of a pupil referred by the school attendance review board *or other district-level referral process if there is no school attendance review board.* The bill would allow enrollment of certain other pupils in a community day school with the consent of the pupil's parent or guardian. The bill would authorize, with respect to certain probation referrals to a community day school, ~~a parent, guardian, or responsible adult to request a hearing from the juvenile court~~ *certain persons, including the attorney for a pupil who is under the jurisdiction of a delinquency court, to take specified actions related to the enrollment of a pupil in a community day school.*

(4) Existing law states the intent of the Legislature that community day schools include specified program components, including, but not limited to, individualized instruction and assessment.

This bill would state the intent of the Legislature that, if an individualized assessment shows that the pupil requires additional

educational services that are not available at the community day school, the parent, guardian, or responsible adult of the pupil should be notified, and that the probation officer relative to a pupil ordered placed in a community day school by court order should also be notified. The bill would require school districts operating community day schools to ensure that appropriate services and programs, as provided, are provided to certain pupils, as specified.

(5) This bill would provide a pupil who is involuntarily enrolled in a county community school or a community day school the right to reenroll in his or her former school or another ~~appropriate~~ *comprehensive* school immediately after ~~readmission~~ *being readmitted* from expulsion or court-ordered placement, and would require the pupil to be informed of that date, thereby imposing a state-mandated local program placement. The bill would prohibit the pupil from being denied ~~this reenrollment~~ *readmission to the school district of residence* based on his or her failure to comply with any ~~additional~~ *additionally imposed* criteria imposed by a county board of education or school district beyond the terms of the initial or subsequent expulsion order. The bill would prohibit the county board of education and the school district from adding additional academic or behavioral criteria or conditions that would extend the duration of the placement of a pupil in a county community school or a community day school beyond the terms of the initial or subsequent expulsion order *from being added*.

(6) Existing law requires the governing board of each school district to establish rules and regulations governing procedures for the expulsion of pupils. Existing law requires *the adopted rules and regulations to require, if a hearing officer or administrative panel decided not to recommend expulsion, the expulsion proceedings to be terminated and the pupil to be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs* ~~if a hearing officer or administrative panel decides not to recommend expulsion.~~

This bill would *require the adopted rules and regulations to instead* require that the pupil be permitted to return only to the classroom instructional program from which the expulsion referral was made. ~~The bill would allow~~ *made unless* a parent, guardian, or responsible adult ~~to request~~ *requests* another school placement in writing. *The bill would, before the placement decision is made by the parent, guardian, or responsible adult, require the superintendent of schools or the*

superintendent’s designee to consult with the parent, guardian, or responsible adult regarding any other school placement options for the pupil in addition to the option to return to his or her classroom instructional program from which the expulsion referral was made. By requiring the governing board of a school district to establish or revise the rules and regulations governing procedures for the expulsion of pupils, the bill would impose a state-mandated local program.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1981 of the Education Code is amended
- 2 to read:
- 3 1981. The county board of education may enroll in a county
- 4 community school pupils who are any of the following:
- 5 (a) Expelled from a school district for any reason other than
- 6 those specified in subdivision (a) or (c) of Section 48915.
- 7 (b) Recommended to attend by a school attendance review board
- 8 with the written consent of the parent or guardian. No pupil shall
- 9 be required to attend a county community school based on the
- 10 recommendation of the school attendance review board. That
- 11 attendance is voluntary and consent may be rescinded.
- 12 (c) (1) (A) On probation, with or without the supervision of
- 13 a probation officer and consistent with an order of a juvenile court,
- 14 who are considered to be wards of the court under Sections 601
- 15 and 602 of the Welfare and Institutions Code and ordered placed
- 16 pursuant to Sections 725, 729.2, and 791 of, and paragraph (2) of
- 17 subdivision (a) of Section 727 of, the Welfare and Institutions
- 18 Code.
- 19 (B) Under the supervision of a probation officer, with the
- 20 consent of the minor and the minor’s parent or guardian, pursuant
- 21 to Section 654 of the Welfare and Institutions Code.

1 (C) Under the supervision of a probation officer pursuant to
2 Section 726 and paragraph (3) of subdivision (a) of Section 727
3 of the Welfare and Institutions Code with the consent of the pupil's
4 parent, guardian, or responsible adult appointed by the juvenile
5 court to make educational decisions for the pupil. The enrollment
6 of a minor covered by this paragraph in a county community school
7 shall be consistent with paragraph (2) of subdivision (c) of Section
8 726 of the Welfare and Institutions Code, which provides that all
9 educational and school placement decisions shall seek to ensure
10 that the youth is in the least restrictive educational program, has
11 access to the academic resources, services, and extracurricular and
12 enrichment activities that are available to all pupils, and are based
13 on the best interests of the minor.

14 (D) Unless specifically ordered by a juvenile court, nothing in
15 this subdivision shall be construed to conflict with the existing
16 rights of a parent, guardian, or responsible adult appointed by the
17 juvenile court pursuant to Section 726 of the Welfare and
18 Institutions Code to make educational placement decisions for the
19 minor.

20 (E) ~~A parent, guardian, or responsible adult of a pupil who is~~
21 ~~under the jurisdiction of the juvenile court may, With respect to a~~
22 ~~pupil's enrollment in a county community school pursuant to~~
23 ~~subparagraph (B) or (C), and consistent with paragraph (2) of~~
24 ~~subdivision (c) of Section 726 of the Welfare and Institutions Code~~
25 ~~and California Rule of Court 5.651, request a hearing with the~~
26 ~~juvenile court regarding any placement in a county community~~
27 ~~school that removes the pupil from the school of origin and notify~~
28 ~~the juvenile court regarding any placement that conflicts with this~~
29 ~~paragraph, with respect to the parent's, guardian's, or responsible~~
30 ~~adult's right to make a decision to enroll or not enroll the pupil in~~
31 ~~a county community school. all of the following shall apply:~~

32 (i) *The attorney for, or the person holding the educational rights*
33 *of, a pupil who is under the jurisdiction of the delinquency court*
34 *may use the procedures set forth in California Rule of Court 5.651*
35 *to address any change of placement that results in the enrollment*
36 *of the pupil in a county community school that is not his or her*
37 *school of origin.*

38 (ii) *The attorney or the person holding the educational rights*
39 *appointed by the court for a pupil who is under the jurisdiction of*
40 *the delinquency court may, during a regularly scheduled hearing,*

1 raise any concerns with respect to whether the enrollment of the
2 pupil in a county community school is meeting the educational
3 needs of the pupil.

4 (iii) Nothing in this subparagraph is intended to limit in any
5 way the rights or responsibilities of any person as set forth in
6 paragraph (2) of subdivision (c) of Section 726 of the Welfare and
7 Institutions Code and California Rule of Court 5.651.

8 (2) On probation or parole and not in attendance at any school,
9 where enrollment is with the consent of the parent, guardian, or
10 responsible adult, or the pupil, if he or she is 18 years of age or
11 older. Nothing in this ~~paragraph~~ subdivision shall impact the
12 provision of services or funding for youth up to 25 years of age
13 pursuant to subdivision (b) of Section 1982.

14 (3) Expelled for any of the reasons specified in subdivision (a)
15 or (c) of Section 48915.

16 (4) Enrollment in a county community school pursuant to this
17 subdivision shall be consistent with Section 48645.5.

18 (d) Pupils whose school districts of attendance, *or, for pupils*
19 *who do not have school districts of attendance, school districts of*
20 *residence*, have, at the request of the pupil’s parent, guardian, or
21 responsible adult, approved the pupil’s enrollment in a county
22 community school, subject to the following:

23 (1) A pupil shall not be enrolled in a county community school
24 pursuant to this subdivision unless the school district ~~has made a~~
25 ~~finding~~ determines that the placement will promote the educational
26 interests of the pupil.

27 (2) A parent, guardian, or responsible adult of a pupil enrolled
28 in a county community school pursuant to this subdivision may
29 rescind the request to the placement, and the pupil shall be
30 immediately reenrolled in the school that the pupil attended at the
31 time of the referral, or, with the consent of the parent, guardian,
32 or responsible adult, another appropriate school. ~~The~~

33 (e) The procedures outlined in subdivisions (b) to (e), inclusive,
34 of Section 51225.2 govern the transfer of credits, records, including
35 special education records, and grades required pursuant to
36 subdivision (a) of Section 48645.5 and Section 49068 when the
37 pupil transfers to and from the county community school.

38 SEC. 2. Section 1981.2 of the Education Code is repealed.

39 SEC. 3. Section 1981.5 is added to the Education Code, to
40 read:

1 1981.5. (a) A pupil who is involuntarily enrolled in a county
2 community school pursuant to subdivision (a) of, or subparagraph
3 (A) of paragraph (1) or paragraph (3) of subdivision (c) of, Section
4 1981 shall have the right to reenroll in his or her former school or
5 another ~~appropriate~~ *comprehensive* school immediately after
6 ~~readmission being readmitted~~ from the expulsion order pursuant
7 to Section 48916 or court-ordered placement. ~~Upon enrollment in~~
8 ~~the county community school, the pupil shall be informed of the~~
9 ~~date when he or she may reenroll in his or her former school or~~
10 ~~another appropriate school. The procedures outlined in subdivisions~~
11 ~~(b) to (e), inclusive, of Section 51225.2 govern the transfer of~~
12 ~~credits, records, including special education records, and grades~~
13 ~~required pursuant to subdivision (a) of Section 48645.5 and Section~~
14 ~~49068 when the pupil transfers to and from the county community~~
15 ~~school. Nothing in this section is intended to limit the school~~
16 ~~placement options that a school district may recommend for a~~
17 ~~pupil being readmitted.~~

18 (b) A pupil shall not be denied ~~reenrollment in his or her former~~
19 ~~school or another comprehensive school~~ *readmission to the school*
20 *district of residence* based on the pupil's failure to comply with
21 any ~~additional~~ *additionally imposed* criteria ~~imposed by a county~~
22 ~~board of education~~ beyond the terms of the initial order or any
23 subsequent order to expel issued pursuant to Section 48916.

24 (c) ~~The county board of education shall not add additional~~
25 *Additional* academic or behavioral criteria or conditions *shall not*
26 *be added* that would extend the duration of the placement of a
27 pupil in a county community school beyond the terms of the initial
28 order or any subsequent order to expel issued pursuant to Section
29 48916.

30 SEC. 4. Section 1983 of the Education Code is amended to
31 read:

32 1983. (a) Pupils enrolled in county community schools shall
33 be assigned to classes or programs deemed most appropriate for
34 reinforcing or reestablishing educational development.

35 (b) These classes or programs may include, but need not be
36 limited to, basic educational skill development, on-the-job training,
37 school credit recovery assistance, tutorial assistance, and individual
38 guidance activities.

39 (c) To the extent that independent study is determined to satisfy
40 the individually planned ~~education~~ *educational* program described

1 in subdivision (d) for a pupil attending a county community school,
2 it shall meet all the requirements of Section 51745 and following,
3 including the requirement that entry into that program is voluntary.

4 (d) An individually planned educational program based upon
5 an educational assessment shall be prescribed for each pupil. If
6 the educational assessment or rehabilitation plan shows that the
7 pupil needs any of the following, the pupil shall be enrolled in or
8 have access to these programs either at the school or through
9 community organizations: counseling, mental health counseling,
10 or other support services, ~~college preparatory and A-G classes,~~
11 access to services necessary to transition a pupil back to his or her
12 prior school or to another comprehensive school, mediation,
13 conflict resolution, alternative behavior interventions as described
14 in subdivision (b) of Section 48900.5, supplemental services to
15 assist with passage of the high school exit examination, or
16 extracurricular or other enrichment activities. For pupils who are
17 under an expulsion order, nothing in this section is intended to
18 require participation in the school district’s extracurricular or other
19 similar programs.

20 (e) The course of study of a county community school shall be
21 adopted by the county board of education and shall enable each
22 pupil to continue academic work leading to the completion of a
23 regular high school program.

24 (f) County boards of education operating county community
25 schools shall ensure that assessments in all areas of suspected
26 disability and appropriate services and programs specified in a
27 pupil’s individualized education program are provided in
28 compliance with all applicable ~~state and federal laws and regulatory~~
29 ~~provisions.~~

30 (g) County boards of education operating county community
31 schools shall ensure that appropriate services and programs
32 designed to address the language needs of pupils identified as
33 English learners are provided in compliance with all applicable
34 ~~state and federal laws and regulatory provisions.~~

35 SEC. 5. Section 48660.1 of the Education Code is amended to
36 read:

37 48660.1. (a) It is the intent of the Legislature that school
38 districts operating community day schools, to the extent possible,
39 include the following program components:

1 (1) School district cooperation with the county office of
2 education, law enforcement, probation, and human services
3 agencies personnel who work with at-risk youth.

4 (2) Low pupil-teacher ratio.

5 (3) Individualized instruction and assessment. If an
6 individualized assessment shows that the pupil requires additional
7 educational services, supports, such as mental health counseling,
8 or classes, such as college preparatory classes, that are not available
9 at the community day school, the parent, guardian, or responsible
10 adult of the pupil should be notified. If the pupil has been placed
11 pursuant to a court order as described in paragraph (2) of
12 subdivision (a) of Section 48662, the probation officer should also
13 be notified.

14 (4) Maximum collaboration with school district support service
15 resources, including, but not limited to, school counselors and
16 psychologists, academic counselors, and pupil discipline personnel.

17 (5) A course of study that enables each pupil to continue
18 academic work leading to the completion of a regular high school
19 program.

20 (b) For an expelled pupil, if the plan of rehabilitation required
21 pursuant to subdivisions (b) and (c) of Section 48916 requires
22 access to a particular service or program for the pupil to meet its
23 conditions, that service or program shall be made available to the
24 pupil free of cost or the rehabilitation plan shall be amended by
25 *the governing board of the school district that ordered the*
26 *expulsion* to remove the condition and reflect that the service or
27 program is not available to the pupil.

28 (c) School districts operating community day schools shall
29 ensure that assessments in all areas of suspected disability and
30 appropriate services and programs specified in a pupil's
31 individualized education program are provided in compliance with
32 all applicable ~~state and federal laws and regulatory provisions~~.

33 (d) School districts operating community day schools shall
34 ensure that appropriate services and programs designed to address
35 the language needs of pupils identified as English learners are
36 provided in compliance with all applicable ~~state and federal laws~~
37 ~~and regulatory provisions~~.

38 SEC. 6. Section 48662 of the Education Code is amended to
39 read:

1 48662. (a) A pupil may be involuntarily transferred to a
2 community day school by a school district only if he or she meets
3 one or more of the following conditions:

4 (1) The pupil is expelled for any reason.

5 (2) The pupil is on probation with or without the supervision
6 of a probation officer and consistent with an order of a juvenile
7 court, and is considered to be a ward of the court under Sections
8 601 and 602 of the Welfare and Institutions Code and is ordered
9 placed pursuant to Sections 725, 729.2, and 791 of, and paragraph
10 (2) of subdivision (a) of Section 727 of, the Welfare and Institutions
11 Code.

12 (3) The pupil is referred by the school attendance review board,
13 *or other district-level referral process if there is no school*
14 *attendance review board*, with the approval of and a ~~finding~~
15 *determination* by the school district that the proposed placement
16 will meet the educational needs of the pupil, including any needs
17 related to the referral to the school attendance review board in the
18 first instance, and that the proposed placement is accessible by the
19 pupil without incurring any transportation costs above and beyond
20 the costs to attend his or her school of residence. The term for an
21 involuntary transfer under this paragraph shall be no longer than
22 the end of the semester following the semester during which the
23 acts leading to the referral occurred, regardless of whether the
24 pupil is successful at the placement, at which time the parent,
25 guardian, or responsible adult may choose whether to continue the
26 pupil's enrollment at the community day school or to return the
27 pupil to the prior school or another appropriate school. If the parent,
28 guardian, or responsible adult has concerns at any time about the
29 appropriateness of the proposed placement, he or she may raise
30 those concerns with the school attendance review board ~~and~~ *or* the
31 school district, and those concerns shall be taken into consideration
32 with regard to whether the placement shall continue.

33 (b) A pupil may be voluntarily transferred to a community day
34 school only if he or she meets one of the following conditions:

35 (1) Under the supervision of a probation officer, with the consent
36 of the minor and the minor's parent or guardian, pursuant to Section
37 654 of the Welfare and Institutions Code.

38 (2) Under the supervision of a probation officer pursuant to
39 Section 726 of, and paragraph (3) of subdivision (a) of Section
40 727 of, the Welfare and Institutions Code with the consent of the

1 pupil's parent, guardian, or responsible adult appointed by the
2 juvenile court to make educational decisions for the pupil. The
3 enrollment of a minor covered by this paragraph in a community
4 day school shall be consistent with paragraph (2) of subdivision
5 (c) of Section 726 of the Welfare and Institutions Code and
6 subdivision (h) of Section 48853, which provide that all educational
7 and school placement decisions shall seek to ensure that the minor
8 is in the least restrictive educational program, has access to the
9 academic resources, services, and extracurricular and enrichment
10 activities that are available to all pupils, and that the decisions are
11 based on the best interests of the minor.

12 (3) The parent or guardian of the pupil has approved or requested
13 the pupil's placement in a community day school.

14 (4) A pupil who is recommended to attend a community day
15 school by a school district shall not be enrolled in a community
16 day school pursuant to ~~this~~ paragraph (3) unless the school district
17 has made a finding that the placement will promote the educational
18 interests of the pupil. ~~The~~

19 (5) *The* parent, guardian, or responsible adult of a pupil enrolled
20 in a community day school pursuant to ~~this~~ paragraph (3) may
21 rescind the request to the placement, and the pupil shall be
22 immediately reenrolled in the school the pupil attended at the time
23 of the referral, or, with the consent of the parent, guardian, or
24 responsible adult, in another appropriate school.

25 (c) *The procedures outlined in subdivisions (b) to (e), inclusive,*
26 *of Section 51225.2 govern the transfer of credits, records, including*
27 *special education records, and grades required pursuant to*
28 *subdivision (a) of Section 48645.5 and Section 49068 when the*
29 *pupil transfers to and from the community day school.*

30 ~~(e)~~

31 (d) First priority for assignment to a community day school
32 shall be given to a pupil expelled pursuant to subdivision (d) of
33 Section 48915, second priority shall be given to pupils expelled
34 for any other reasons, and third priority shall be given for
35 placement to all other pupils pursuant to this section, unless there
36 is an agreement that the county superintendent of schools shall
37 serve any of these pupils.

38 ~~(d)~~

39 (e) Unless specifically ordered by a juvenile court, nothing in
40 this section shall be construed to conflict with the existing rights

1 of a parent or guardian or responsible adult appointed by the
 2 juvenile court pursuant to Section 726 of the Welfare and
 3 Institutions Code to make educational placement decisions for the
 4 minor.

5 (e)

6 (f) Enrollment in a community day school pursuant to this
 7 section shall be consistent with Section 48645.5.

8 (f)

9 (g) With respect to a ~~placement~~ *voluntary transfer* under
 10 paragraph (1) or (2) of subdivision (b), ~~a parent, guardian, or~~
 11 ~~responsible adult of a pupil who is under the jurisdiction of the~~
 12 ~~juvenile court may, and~~ consistent with paragraph (2) of
 13 subdivision (c) of Section 726 of the Welfare and Institutions Code
 14 and California Rule of Court 5.651, ~~request a hearing with the~~
 15 ~~juvenile court regarding any placement in a community day school~~
 16 ~~that removes the pupil from the school of origin and notify the~~
 17 ~~juvenile court regarding any placement that conflicts with~~
 18 ~~paragraph (1) or (2) of subdivision (b) with respect to the parent's,~~
 19 ~~guardian's, or responsible adult's right to make a decision to enroll~~
 20 ~~or not to enroll the pupil in a community day school. all of the~~
 21 *following shall apply:*

22 (1) *The attorney for, or the person holding the educational rights*
 23 *of, a pupil who is under the jurisdiction of the delinquency court*
 24 *may use the procedures set forth in California Rule of Court 5.651*
 25 *to address any change of placement that results in the enrollment*
 26 *of the pupil in a community day school that is not his or her school*
 27 *of origin.*

28 (2) *The attorney or the person holding the educational rights*
 29 *appointed by the court for a pupil who is under the jurisdiction of*
 30 *the delinquency court may, during a regularly scheduled hearing,*
 31 *raise any concerns with respect to whether the enrollment of the*
 32 *pupil in a community day school is meeting the educational needs*
 33 *of the pupil.*

34 (3) *Nothing in this subdivision is intended to limit in any way*
 35 *the rights or responsibilities of any person as set forth in paragraph*
 36 *(2) of subdivision (c) of Section 726 of the Welfare and Institutions*
 37 *Code and California Rule of Court 5.651.*

38 SEC. 7. Section 48662.5 is added to the Education Code, to
 39 read:

1 48662.5. (a) A pupil who is involuntarily enrolled in a
2 community day school shall have the right to reenroll in his or her
3 former school or another comprehensive school immediately after
4 ~~readmission being readmitted~~ from the expulsion order pursuant
5 ~~to Section 48916~~ or court-ordered placement. ~~pursuant to Section~~
6 ~~48916. Upon that involuntary enrollment in the community day~~
7 ~~school, the pupil shall be informed of the date when he or she may~~
8 ~~reenroll in his or her former school or another appropriate school.~~
9 ~~The procedures outlined in subdivisions (b) to (e), inclusive, of~~
10 ~~Section 51225.2 govern the transfer of credits, records, including~~
11 ~~special education records, and grades required pursuant to~~
12 ~~subdivision (a) of Section 48645.5 and Section 49068~~ *Nothing in*
13 *this section is intended to limit the school placement options that*
14 *a school district may recommend for a pupil being readmitted.*

15 (b) A pupil shall not be denied ~~reenrollment in his or her former~~
16 ~~school or another comprehensive school~~ *readmission to the school*
17 *district of residence* based on the pupil's failure to comply with
18 any additional criteria imposed ~~by a school district~~ beyond the
19 terms of an initial or subsequent order to expel issued pursuant to
20 Section 48916.

21 (c) ~~The school district shall not add additional~~ *Additional*
22 *academic or behavioral criteria or conditions shall not be added*
23 *that would extend the duration of the placement of a pupil in a*
24 *community day school beyond the terms of an initial or subsequent*
25 *order to expel issued pursuant to Section 48916.*

26 (d) Any school created for the purpose of enrolling pupils that
27 may be assigned to a community day school pursuant to Section
28 48662 shall follow the same procedures for the involuntary transfer
29 of pupils to a community day school set forth in this article.

30 SEC. 8. Section 48918 of the Education Code is amended to
31 read:

32 48918. The governing board of each school district shall
33 establish rules and regulations governing procedures for the
34 expulsion of pupils. These procedures shall include, but are not
35 necessarily limited to, all of the following:

36 (a) (1) The pupil shall be entitled to a hearing to determine
37 whether the pupil should be expelled. An expulsion hearing shall
38 be held within 30 schooldays after the date the principal or the
39 superintendent of schools determines that the pupil has committed
40 any of the acts enumerated in Section 48900, unless the pupil

1 requests, in writing, that the hearing be postponed. The adopted
2 rules and regulations shall specify that the pupil is entitled to at
3 least one postponement of an expulsion hearing, for a period of
4 not more than 30 calendar days. Any additional postponement may
5 be granted at the discretion of the governing board *of the school*
6 *district*.

7 (2) Within 10 schooldays after the conclusion of the hearing,
8 the governing board *of the school district* shall decide whether to
9 expel the pupil, unless the pupil requests in writing that the decision
10 be postponed. If the hearing is held by a hearing officer or an
11 administrative panel, or if the governing board *of the school district*
12 does not meet on a weekly basis, the governing board *of the school*
13 *district* shall decide whether to expel the pupil within 40 schooldays
14 after the date of the pupil's removal from his or her school of
15 attendance for the incident for which the recommendation for
16 expulsion is made by the principal or the superintendent, unless
17 the pupil requests in writing that the decision be postponed.

18 (3) If compliance by the governing board *of the school district*
19 with the time requirements for the conducting of an expulsion
20 hearing under this subdivision is impracticable during the regular
21 school year, the superintendent of schools or the superintendent's
22 designee may, for good cause, extend the time period for the
23 holding of the expulsion hearing for an additional five schooldays.
24 If compliance by the governing board *of the school district* with
25 the time requirements for the conducting of an expulsion hearing
26 under this subdivision is impractical due to a summer recess of
27 governing board meetings of more than two weeks, the days during
28 the recess period shall not be counted as schooldays in meeting
29 the time requirements. The days not counted as schooldays in
30 meeting the time requirements for an expulsion hearing because
31 of a summer recess of governing board meetings shall not exceed
32 20 schooldays, as defined in subdivision (c) of Section 48925, and
33 unless the pupil requests in writing that the expulsion hearing be
34 postponed, the hearing shall be held not later than 20 calendar days
35 before the first day of school for the school year. Reasons for the
36 extension of the time for the hearing shall be included as a part of
37 the record at the time the expulsion hearing is conducted. Upon
38 the commencement of the hearing, all matters shall be pursued
39 and conducted with reasonable diligence and shall be concluded
40 without any unnecessary delay.

1 (b) Written notice of the hearing shall be forwarded to the pupil
2 at least 10 calendar days before the date of the hearing. The notice
3 shall include all of the following:

4 (1) The date and place of the hearing.

5 (2) A statement of the specific facts and charges upon which
6 the proposed expulsion is based.

7 (3) A copy of the disciplinary rules of the school district that
8 relate to the alleged violation.

9 (4) A notice of the parent, guardian, or pupil's obligation
10 pursuant to subdivision (b) of Section 48915.1.

11 (5) Notice of the opportunity for the pupil or the pupil's parent
12 or guardian to appear in person or to be represented by legal
13 counsel or by a nonattorney adviser, to inspect and obtain copies
14 of all documents to be used at the hearing, to confront and question
15 all witnesses who testify at the hearing, to question all other
16 evidence presented, and to present oral and documentary evidence
17 on the pupil's behalf, including witnesses. In a hearing in which
18 a pupil is alleged to have committed or attempted to commit a
19 sexual assault as specified in subdivision (n) of Section 48900 or
20 committing a sexual battery as defined in subdivision (n) of Section
21 48900, a complaining witness shall be given five days' notice
22 before being called to testify, and shall be entitled to have up to
23 two adult support persons, including, but not limited to, a parent,
24 guardian, or legal counsel, present during their testimony. Before
25 a complaining witness testifies, support persons shall be
26 admonished that the hearing is confidential. This subdivision shall
27 not preclude the person presiding over an expulsion hearing from
28 removing a support person whom the presiding person finds is
29 disrupting the hearing. If one or both of the support persons is also
30 a witness, the provisions of Section 868.5 of the Penal Code shall
31 be followed for the hearing. This section does not require a pupil
32 or the pupil's parent or guardian to be represented by legal counsel
33 or by a nonattorney adviser at the hearing.

34 (A) For purposes of this section, "legal counsel" means an
35 attorney or lawyer who is admitted to the practice of law in
36 California and is an active member of the State Bar of California.

37 (B) For purposes of this section, "nonattorney advisor" means
38 an individual who is not an attorney or lawyer, but who is familiar
39 with the facts of the case, and has been selected by the pupil or
40 pupil's parent or guardian to provide assistance at the hearing.

1 (c) (1) Notwithstanding Section 35145, the governing board of
2 *the school district* shall conduct a hearing to consider the expulsion
3 of a pupil in a session closed to the public, unless the pupil
4 requests, in writing, at least five days before the date of the hearing,
5 that the hearing be conducted at a public meeting. Regardless of
6 whether the expulsion hearing is conducted in a closed or public
7 session, the governing board of *the school district* may meet in
8 closed session for the purpose of deliberating and determining
9 whether the pupil should be expelled.

10 (2) If the governing board of *the school district* or the hearing
11 officer or administrative panel appointed under subdivision (d) to
12 conduct the hearing admits any other person to a closed deliberation
13 session, the parent or guardian of the pupil, the pupil, and the
14 counsel of the pupil also shall be allowed to attend the closed
15 deliberations.

16 (3) If the hearing is to be conducted at a public meeting, and
17 there is a charge of committing or attempting to commit a sexual
18 assault as defined in subdivision (n) of Section 48900 or
19 committing a sexual battery as defined in subdivision (n) of Section
20 48900, a complaining witness shall have the right to have his or
21 her testimony heard in a session closed to the public when
22 testifying at a public meeting would threaten serious psychological
23 harm to the complaining witness and there are no alternative
24 procedures to avoid the threatened harm, including, but not limited
25 to, videotaped deposition or contemporaneous examination in
26 another place communicated to the hearing room by means of
27 closed-circuit television.

28 (d) Instead of conducting an expulsion hearing itself, the
29 governing board of *the school district* may contract with the county
30 hearing officer, or with the Office of Administrative Hearings
31 pursuant to Chapter 14 (commencing with Section 27720) of Part
32 3 of Division 2 of Title 3 of the Government Code and Section
33 35207, for a hearing officer to conduct the hearing. The governing
34 board of *the school district* may also appoint an impartial
35 administrative panel of three or more certificated persons, none
36 of whom is a member of the ~~board~~ governing board of *the school*
37 *district* or employed on the staff of the school in which the pupil
38 is enrolled. The hearing shall be conducted in accordance with all
39 of the procedures established under this section.

1 (e) Within three schooldays after the hearing, the hearing officer
2 or administrative panel shall determine whether to recommend the
3 expulsion of the pupil to the governing board *of the school district*.
4 If the hearing officer or administrative panel decides not to
5 recommend expulsion, the expulsion proceedings shall be
6 terminated and the pupil immediately shall be reinstated and
7 permitted to return to the classroom instructional program from
8 which the expulsion referral was made, unless the parent, guardian,
9 or responsible adult of the pupil requests another school placement
10 in writing. Before the placement decision ~~being~~ *is* made by the
11 parent, guardian, or responsible adult, the superintendent of schools
12 or the superintendent's designee ~~may, after consultation with school~~
13 ~~district personnel, including the pupil's teacher, and shall consult~~
14 ~~with~~ the parent, guardian, or responsible adult, ~~recommend one or~~
15 ~~more regarding any other~~ school placement options for the pupil
16 in addition to the option to return to his or her classroom
17 instructional program from which the expulsion referral was made.
18 The decision not to recommend expulsion shall be final.

19 (f) (1) If the hearing officer or administrative panel recommends
20 expulsion, findings of fact in support of the recommendation shall
21 be prepared and submitted to the governing board *of the school*
22 *district*. All findings of fact and recommendations shall be based
23 solely on the evidence adduced at the hearing. If the governing
24 board *of the school district* accepts the recommendation calling
25 for expulsion, acceptance shall be based either upon a review of
26 the findings of fact and recommendations submitted by the hearing
27 officer or panel or upon the results of any supplementary hearing
28 conducted pursuant to this section that the governing board *of the*
29 *school district* may order.

30 (2) The decision of the governing board *of the school district*
31 to expel a pupil shall be based upon substantial evidence relevant
32 to the charges adduced at the expulsion hearing or hearings. Except
33 as provided in this section, no evidence to expel shall be based
34 solely upon hearsay evidence. The governing board *of the school*
35 *district* or the hearing officer or administrative panel may, upon a
36 finding that good cause exists, determine that the disclosure of
37 either the identity of a witness or the testimony of that witness at
38 the hearing, or both, would subject the witness to an unreasonable
39 risk of psychological or physical harm. Upon this determination,
40 the testimony of the witness may be presented at the hearing in

1 the form of sworn declarations that shall be examined only by the
2 governing board *of the school district* or the hearing officer or
3 administrative panel. Copies of these sworn declarations, edited
4 to delete the name and identity of the witness, shall be made
5 available to the pupil.

6 (g) A record of the hearing shall be made. The record may be
7 maintained by any means, including electronic recording, so long
8 as a reasonably accurate and complete written transcription of the
9 proceedings can be made.

10 (h) (1) Technical rules of evidence shall not apply to the
11 hearing, but relevant evidence may be admitted and given probative
12 effect only if it is the kind of evidence upon which reasonable
13 persons are accustomed to rely in the conduct of serious affairs.
14 A decision of the governing board *of the school district* to expel
15 shall be supported by substantial evidence showing that the pupil
16 committed any of the acts enumerated in Section 48900.

17 (2) In hearings that include an allegation of committing or
18 attempting to commit a sexual assault as defined in subdivision
19 (n) of Section 48900 or committing a sexual battery as defined in
20 subdivision (n) of Section 48900, evidence of specific instances,
21 of a complaining witness' prior sexual conduct is to be presumed
22 inadmissible and shall not be heard absent a determination by the
23 person conducting the hearing that extraordinary circumstances
24 exist requiring the evidence be heard. Before the person conducting
25 the hearing makes the determination on whether extraordinary
26 circumstances exist requiring that specific instances of a
27 complaining witness' prior sexual conduct be heard, the
28 complaining witness shall be provided notice and an opportunity
29 to present opposition to the introduction of the evidence. In the
30 hearing on the admissibility of the evidence, the complaining
31 witness shall be entitled to be represented by a parent, guardian,
32 legal counsel, or other support person. Reputation or opinion
33 evidence regarding the sexual behavior of the complaining witness
34 is not admissible for any purpose.

35 (i) (1) Before the hearing has commenced, the governing board
36 *of the school district* may issue subpoenas at the request of either
37 the superintendent of schools or the superintendent's designee or
38 the pupil, for the personal appearance of percipient witnesses at
39 the hearing. After the hearing has commenced, the governing board
40 *of the school district* or the hearing officer or administrative panel

1 may, upon request of either the county superintendent of schools
2 or the superintendent's designee or the pupil, issue subpoenas. All
3 subpoenas shall be issued in accordance with Sections 1985,
4 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement
5 of subpoenas shall be done in accordance with Section 11455.20
6 of the Government Code.

7 (2) Any objection raised by the superintendent of schools or the
8 superintendent's designee or the pupil to the issuance of subpoenas
9 may be considered by the governing board *of the school district*
10 in closed session, or in open session, if so requested by the pupil
11 before the meeting. Any decision by the governing board *of the*
12 *school district* in response to an objection to the issuance of
13 subpoenas shall be final and binding.

14 (3) If the governing board *of the school district*, hearing officer,
15 or administrative panel determines, in accordance with subdivision
16 (f), that a percipient witness would be subject to an unreasonable
17 risk of harm by testifying at the hearing, a subpoena shall not be
18 issued to compel the personal attendance of that witness at the
19 hearing. However, that witness may be compelled to testify by
20 means of a sworn declaration as provided for in subdivision (f).

21 (4) Service of process shall be extended to all parts of the state
22 and shall be served in accordance with Section 1987 of the Code
23 of Civil Procedure. All witnesses appearing pursuant to subpoena,
24 other than the parties or officers or employees of the state or any
25 political subdivision thereof, shall receive fees, and all witnesses
26 appearing pursuant to subpoena, except the parties, shall receive
27 mileage in the same amount and under the same circumstances as
28 prescribed for witnesses in civil actions in a superior court. Fees
29 and mileage shall be paid by the party at whose request the witness
30 is subpoenaed.

31 (j) Whether an expulsion hearing is conducted by the governing
32 board *of the school district* or before a hearing officer or
33 administrative panel, final action to expel a pupil shall be taken
34 only by the governing board *of the school district* in a public
35 session. Written notice of any decision to expel or to suspend the
36 enforcement of an expulsion order during a period of probation
37 shall be sent by the superintendent of schools or his or her designee
38 to the pupil or the pupil's parent or guardian and shall be
39 accompanied by all of the following:

1 (1) Notice of the right to appeal the expulsion to the county
2 board of education.

3 (2) Notice of the education alternative placement to be provided
4 to the pupil during the time of expulsion.

5 (3) Notice of the obligation of the parent, guardian, or pupil
6 under subdivision (b) of Section 48915.1, upon the pupil's
7 enrollment in a new school district, to inform that *school* district
8 of the pupil's expulsion.

9 (k) (1) The governing board of *the school district* shall maintain
10 a record of each expulsion, including the cause for the expulsion.
11 Records of expulsions shall be a nonprivileged, disclosable public
12 record.

13 (2) The expulsion order and the causes for the expulsion shall
14 be recorded in the pupil's mandatory interim record and shall be
15 forwarded to any school in which the pupil subsequently enrolls
16 upon receipt of a request from the admitting school for the pupil's
17 school records.

18 SEC. 9. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.